

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DEON DEMITRE CARTER,

Plaintiff,

:

Case No. 3:06-cv-112

-vs-

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

:

R. JAMES NICHOLAS, Secretary of
Veterans Affairs,

Defendant.

REPORT AND RECOMMENDATIONS

This action was filed April 21, 2006. On June 21, 2006, the Court notified Plaintiff that Fed. R. Civ. P. 4(m) requires the Court to dismiss an action in which service is not made within 120 days of filing the Complaint, that the time for filing proof of service or waiver expires August 22, 2006, and that unless proof of service was filed by that date, the Court would dismiss this action for lack of service of process.

The time for service of process has now expired and no service has been made. Process was finally issued on August 21, 2006, but there is no indication of service on any of the Defendants or even of what provisions Plaintiff may have made for attempting service.

It is accordingly respectfully recommended that this case be dismissed without prejudice for lack of service of process.

August 28, 2006.

s/ Michael R. Merz
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).